

**AFFIDAVIT**

I, David T. Palczewski, being duly sworn, state as follows:

**Introduction and Agent Background**

1. I am a Border Patrol Agent (BPA) of the United States Border Patrol (USBP), a component of Customs and Border Protection (CBP) within the Department of Homeland Security (DHS). I have been so employed since February 5, 2009. I have been assigned to the Richford, Vermont Station as a BPA for approximately 3 years and currently serve as the station's Prosecutions Agent. I was previously assigned to the Calais, Maine, Border Patrol Station as a BPA for approximately 10 years and to the Santa Teresa, New Mexico, Border Patrol Station for approximately 1 year.

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of an electronic device — described below and in Attachment A —that is currently in law enforcement's possession and the seizure from this device of its electronically stored information described in Attachment B. This warrant application arises from the United States Border Patrol's contact with John Theodore Milos IV ("MILOS") on August 6, 2023, in the District of Vermont.

3. The device to be searched is a green Apple iPhone seized from MILOS on August 6, 2023 ("the Device"). This device is currently located at the U.S. Border Patrol Richford Station at 1668 St. Albans Road in Richford, Vermont. Based on my training and experience, this device has been stored in a manner such that the data remains in the same condition as it was at the time of the device's seizure. The applied-for warrant would authorize the forensic examination of the device for the purpose of seizing electronically stored data, particularly

described in Attachment B, that would evidence participation in a human smuggling conspiracy by the user of the device — specifically, in violation of 8 U.S.C. § 1324.

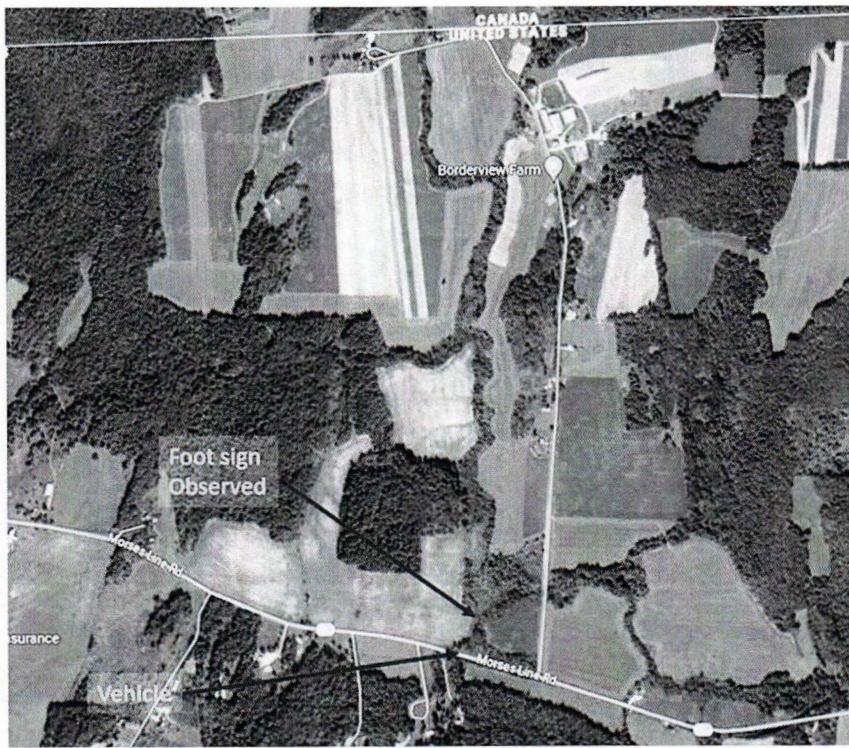
4. Based on my training and experience, I am aware that individuals working together to commit crimes often use their cellular phones to contact one another, to research related topics, to navigate while driving, and to coordinate meeting locations. In my investigations of many alien smuggling and narcotics smuggling cases, electronic devices have commonly been used to facilitate the smuggling event by arranging the coordination of transportation and by guiding both the aliens and the receiving load driver via global positioning system applications and verbal and/or non-verbal communications relayed over Wi-Fi and/or a telecommunications network. For example, individuals coordinating smuggling events will frequently send map coordinates (“pins”) or screenshots of maps to both the aliens crossing the international border and the driver waiting to pick them up. These tasks are frequently necessary in the Swanton Sector Area of Responsibility (AOR); given the remote and rural nature of the AOR, arranging meetings at precise times and navigating to locations unlikely to appear on printed maps often require the use of cellular devices. Further, I am aware that cellular phones and the cellular network often generate and record data without the phone users’ necessarily being aware of or able to delete the data.

5. The information contained within this affidavit is based upon my training and experience, my own investigative efforts, and investigation by other law enforcement officers with whom I have spoken or whose reports I have reviewed. The following is either known to me personally or has been related to me by persons having direct knowledge of the events described below. It is meant to set forth probable cause to believe that the violations occurred, and that evidence of the violations will be found on the Device, and it does not include every fact

known to law enforcement about the events described below. Unless otherwise specified, the statements described in the following paragraphs are related in sum and substance and are not meant as direct quotations or complete descriptions.

### Probable Cause

6. On August 6, 2023, Acting Supervisory Border Patrol Agent (SBPA) Neil Arnold was on duty near the intersection of Pidgeon Hill and Route 235 in Franklin, Vermont. SBPA Arnold was dressed in his duty uniform and was outside of his service vehicle on foot searching a known area used for alien smuggling. A map of the area appears below. Route 235 in this location, also known as Morses Line Road, is an east-west road approximately one mile south of the international border between Canada and the United States.



7. Agents assigned to the Richford station, including SBPA Arnold, are familiar with transporters using Route 235 to pick up migrants who entered the United States illegally and

transporting them to Route 207 or Route 120 to depart the area. Richford agents are also familiar with a recent series of smuggling events in this area. On August 5, 2023, and July 29, 2023, Richford Agents discovered foot signs of multiple individuals traversing through a muddy creek and dense brush heading south onto Route 235. I know from my training and experience that aliens who have illegally entered the United States will use routes such as this as they provide concealment from roadways where Border Patrol will commonly patrol the border in their service vehicles.

8. At approximately 11:30 A.M. on August 6, 2023, SBPA Arnold observed the footprints of approximately five to six individuals in the mud of a creek traveling southbound towards Route 235. As SBPA Arnold followed the footprints, he heard a vehicle traveling on Route 235 slow down near his location. He then heard one single “beep” from a car horn. A few seconds later, SBPA Arnold heard multiple car doors slam. Based on previous smuggling events and interviews with apprehended aliens, I know, and SBPA Arnold knows, that it is common for alien smugglers, as they approach a pick-up location, to use some form of signaling, such as a car horn or flashing headlights, to communicate to the migrants they are planning to pick up, who may be hiding along the roadside. SBPA Arnold identified this as a possible alien smuggling attempt and immediately ran towards the sound of the vehicle. As he approached Route 235, he observed a red truck attempting to turn around on Route 235. In previous smuggling attempts, drivers have used Route 120 north through Franklin, Vermont, and then traveled west on Route 235. After picking up migrants, the smugglers would turn to return south on Route 120 as an immediate egress route away from the border. This tactic reduces the time and distance traveled on border roads where Border Patrol are actively patrolling. SBPA Arnold is familiar with this

trend from previous encounters, and it raised his suspicion to see the vehicle attempting to immediately turn around. SBPA Arnold heard and observed no other vehicles in this area.

9. At Approximately 11:45 A.M., SBPA Arnold approached the red truck and noticed it had multiple passengers inside. He was able to see a driver, an individual in the passenger seat, and approximately three to four individuals in the rear seat. SBPA Arnold verbally identified himself as a Border Patrol Agent and used his hands to signal the vehicle to pull to the side of the road. The driver, MILOS, immediately made a comment to the effect of, "please don't tell me these people are violent," indicating he was not familiar with the occupants of the vehicle he was operating.

10. SBPA Arnold asked MILOS for identification and if he was a United States citizen. The driver claimed to be a United States citizen and presented SBPA Arnold with a New York driver's license. The driver was identified as John Theodore Milos IV.

11. SBPA Arnold then asked the other five individuals in the vehicle if they had any identification and their country of citizenship. The passengers in the vehicle all claimed to be citizens of Mexico. SBPA Arnold asked where they had come from and if they had illegally crossed the United States border. The passengers in the vehicle all claimed to have illegally crossed into the United States from Canada earlier that day.

12. The passengers all presented SBPA Arnold with their individual Mexican passports bearing the issued individuals' names and photographs. SBPA Arnold asked the five passengers if any had permission or documents to be in the United States. All five claimed to not have permission or any documents allowing them to be in the United States.

13. BPA Adam Birchard then arrived on scene to assist SBPA Arnold. SBPA Arnold questioned MILOS about his role in transporting the illegal aliens. MILOS stated he was paid on

a previous trip to pick up individuals and bring them to the airport. SBPA Arnold then asked MILOS if he was getting paid for this trip. MILOS then said, "I don't want to answer that." SBPA Arnold then took MILOS into custody and placed him in the back of his service vehicle to be transported to the Richford Border Patrol Station for further investigation of alien smuggling, in violation of 8 U.S.C. § 1324.

14. After MILOS was taken into custody, BPA Birchard observed a green Apple iPhone that was plugged into the vehicle's USB accessory port. The vehicle's dashboard display showed that Apple's CarPlay system was active. Apple Carplay is a vehicle assistant tool that provides drivers with access to their phone's messages, calls, navigation, and other applications. In previous alien smuggler events that I have encountered in the area, the alien smugglers will use a navigation application on their phone, such as Apple Maps, Google Maps, or WhatsApp, to navigate to aliens that have illegally crossed into the United States and are waiting to be picked up. Apple Carplay allows such navigation applications to display directions and maps on the vehicle's dashboard screen. The location of the Device and its connection over Carplay suggest that the phone belonged to the driver, MILOS.

15. The passengers were transported to the Richford Border Patrol Station for further processing and investigation. At the station, all subjects' identities were confirmed by enrolling them in DHS databases using biometric fingerprints.

16. At the Richford Station, BPAs took the fingerprints and biographical data of the passengers and entered them into the E3 Nextgen database. The results revealed that none of the passengers in the vehicle had permission to be in the United States or pending applications or petitions to enter the United States.

17. All the passengers, including MILOS, were read their *Miranda* rights by BPA (Intel) Jamie Montoya, as witnessed by me. All the passengers agreed to give a statement without an attorney present. From their interviews, the following information was obtained.

- All the passengers used the same alien smuggler, who is located in Canada, to facilitate their illegal entry into the United States.
- All the passengers gave permission for BPAs to search their phones. Each phone had the same phone number stored for the alien smuggler in Canada.
- The passengers never actually met the smuggler or learned his name.
- The passengers were each required to pay \$2,500 Canadian Dollars in Canada before they left for the border, and then planned to pay \$2,500 when they arrived at their destination in the United States.
- The passengers were transported together in the same vehicle to the United States border. The passengers did not know the driver, but each passenger described him as a person of Chinese descent with curly hair and glasses.
- During the trip to the border, the driver told the passengers that a red vehicle would pick them up.
- The passengers were shown on a GPS device the path to take on foot from the border to Route 235 where they would be picked up by the red vehicle.
- After arriving at the pickup location near Route 235, the passengers claimed to have waited approximately 20 minutes before seeing a red vehicle. The passengers immediately ran to it when it stopped in front of their location.
- When MILO was shown the green Apple iPhone, the Device, he acknowledged that it belonged to him.

18. In one of the passengers' phones, there were several text messages received that day from the Canadian smuggler in the Spanish language. Below is the English translation of the messages:

- Be ready. Do not leave until you confirm that it is the correct car. (*Estén listos, no salgan hasta confirmar que es el carro correcto.*)
- 1 minute get ready. (*1 minuto pilaa.*)
- The driver is there in 22 minutes. (*El chofer está ahí en 22 minutos 11:42 ponga se pilas.*<sup>1</sup>)
- 3 minutes. (*3 minutos.*)
- 2 minutes. (*2 minutos.*)
- Please confirm with me. (*Me confirman por favor.*)

19. These text messages show that the Canadian smuggler was advising the passengers that the pickup vehicle was arriving soon. This would suggest that the Canadian smuggler was tracking, or in communication with the driver of, the vehicle. In previous alien smuggling events, smugglers and aliens have used their phones to track each other using applications such as WhatsApp.

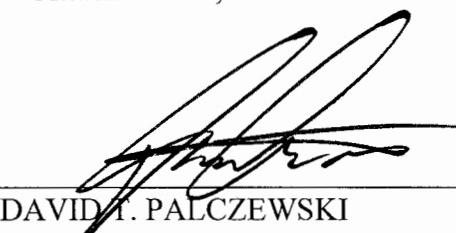
20. I believe there is probable cause to believe that evidence of an alien smuggling conspiracy in violation of 8 USC § 1324 will be found on the green Apple iPhone belonging to MILOS. This device is currently stored in a way to preserve any evidence and is located at the Richford Border Patrol Station in Richford, Vermont.

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<sup>1</sup> "Pilas" in the Spanish language translates to "Batteries" in English. The phrase "ponga se pilas" is a Spanish idiom that translates to "put in your batteries" meaning "Hurry up" or "Move Fast."

**Conclusion and Request**

21. Based on the foregoing information, I submit there is probable cause to believe that on or about August 6, 2023, in the District of Vermont, MILOS conspired to bring aliens into the United States and transport them in furtherance of their illegal entry while knowing or recklessly disregarding the fact that they were aliens who had illegally entered the United States, in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I). There is also probable cause to believe that the device would contain evidence of those violations and conspiracy of previous alien smuggling in violation of 8 USC § 1324. I respectfully request the issuance of a search warrant authorizing the examination of this device, further described in Attachment A, and the seizure therefrom of data described in Attachment B.



DAVID T. PALCZEWSKI  
Border Patrol Agent  
U.S. Border Patrol

Subscribed and sworn to before me on the 24<sup>th</sup> day of August, 2023.



HONORABLE KEVIN J. DOYLE  
United States Magistrate Judge  
District of Vermont